

From: John Gelston
To: Microsoft ATR
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Subject: Microsoft Settlement.

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I am a retired Boeing Company computer research and technology manager with 31 years of computing industry experience. I have first hand knowledge of the industry and its evolution. Competitors of Microsoft have succeeded in misleading government lawyers. They have characterized Microsoft's success as the result of illegal activity. Microsoft became successful long before anyone could have called them a monopoly because they understood consumers' (both commercial and individual) desire for products that worked well together on the personal computer. With all due respect, lawyers are not competent to evaluate what software product designs are good or bad for consumers! The marketplace is!

In the existing federal/state government suit, claims of damage to consumers are speculative at best. If valid, one would expect the plaintiffs to have been a host of corporate users rather than government lawyers parroting claims of disgruntled competitors. Where were the damaged consumers in the case? It was some of Microsoft's competitors, with their ringleader Scott McNealy, not consumers, who contrived the idea that consumers were being harmed and initiated complaints against the software company. The plaintiffs have not shown damage to consumers. We are expected to take on faith that helping competitors by harming Microsoft will somehow help consumers. Hogwash!

Claims of anti-competitive practices by Microsoft focus on hard-nosed business practices. While some of their tactics are deemed unacceptable due to their now dominant position, they are common among competitors in the industry. It is a fact that there is no industry that is any more competitive. The rapid rate of change in the software industry has been brought on by competitive innovation. The barriers to entry are nil. Linux, a significant alternative to Windows, came out of a dorm room. Anyone that can program can become a billionaire if they have the initiative. The fact that the marketplace freely gravitates to de facto standards of one vendor does not mean they are being harmed!

There is no other example in human history of such rapid increase in the benefits, features and functionality of product offerings accompanied by

plummeting prices. Consumer damage is laughable! Every business and individual user around the world has benefited from Microsoft in one way or another. Before their contribution, the personal computer relied on a chaotic mish-mash of incompatible software, appealing to only the techie world. Microsoft's great success is due to overwhelming marketplace desire for and acceptance of the benefits they provided, more than any heavy-handed competitive acts they are charged with.

I include a direct quote from a piece on this subject by Bob Williams of the Evergreen Freedom Foundation, a non-partisan public policy research organization in Washington State.

["Microsoft's actions have increased the rate of technological development, but the same cannot be said for the actions of the government. Thousands of hours of labor and millions of dollars have been diverted from technological research and development to respond to the government's lawsuit.

"The government's case falls short in several areas, most notably in the government's misuse of antitrust laws. The proliferation of new products on the market and falling prices make it difficult to defend the idea that Microsoft's alleged monopolistic activity has harmed consumers. Consumers do not have to buy Microsoft products if they don't want to. This was illustrated best by an attorney from Ralph Nader's organization who criticized the size of Microsoft's market share, then proceeded to undermine his own argument by proudly stating that his office used no Microsoft products.

"It is litigation-happy state AGs who are harming consumers, not Microsoft. Certainly the rapid increase in useful technology has created enormous challenges for our society and many issues must be addressed, but the response from government should not be to crush all innovation by over- regulation and litigation. If the federal government is going to look suspiciously at lower prices and improved quality as evidence of illegal activity, American consumers are in big trouble.

"State attorneys general need to let this lawsuit end and focus on true threats to America's citizens and consumers.]

Respectfully,

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